

NEW JERSEY—THE PUBLIC LANDS.

RESOLUTIONS

OF

THE LEGISLATURE OF NEW JERSEY

RESPECTING

*The Public Lands.*

FEBRUARY 19, 1839.

Read, and laid upon the table.

EXECUTIVE DEPARTMENT,

*Trenton, (New Jersey,) February 8, 1839.*

SIR: I have the honor to transmit herewith a copy of resolutions (with an accompanying report of a joint committee) adopted by the Council and General Assembly of the State of New Jersey, respecting the public lands, and to request that they may be laid before Congress.

With high consideration, your obedient servant,

WILLIAM PENNINGTON,

*Governor of New Jersey.*

HON. JOSEPH F. RANDOLPH,

*Representative from New Jersey.*

*Report of the Joint Committee of the Council and General Assembly of the State of New Jersey on the Public Lands.*

The joint committee to whom were referred the resolutions of the Legislature of the State of Connecticut, relative to the public lands, have had the same under consideration, and respectfully submit the following report:

The subject of the public lands is one to which the attention of the people of New Jersey was early directed, and upon which their sentiments and feelings were very clearly and decidedly expressed. It is matter of history, that when the articles of confederation were under consideration in Congress, in 1777, the delegates from New Jersey endeavored, though without success, to procure the insertion of an article which would secure the "impatiented or crown lands," as they were then called, for the common benefit of all the States. After these articles had been agreed

upon and adopted by Congress, they were transmitted to the Legislatures of the several States, for their approbation and ratification. The Legislature of New Jersey, after several months of deliberation, on the 16th of June, 1778, declined to ratify them, and furnished to Congress, through their delegates, a statement of the reasons of their refusal ; from which the following is an extract :

“ The present war, as we always apprehended, was undertaken for the general defence and interest of the confederating colonies, now the United States. It was ever the confident expectation of this State, that the benefits derived from a successful contest were to be general and proportionate ; and that the property of the common enemy, falling in consequence of a prosperous issue of the war, would belong to the United States, and be appropriated to their use. We are, therefore, greatly disappointed in finding no provision made in the confederation for empowering Congress to dispose of such property, *but especially the vacant and impatented lands, commonly called the crown lands*, for defraying the expenses of the war, and for such other public and general purposes. Reason and justice must decide that the property which existed in the crown of Great Britain previous to the present Revolution, ought now to belong to the Congress, in trust, for the use and benefit of the United States. They have fought and bled for it in proportion to their respective abilities, and, therefore, the reward ought not to be predilectionally distributed.”

Failing to obtain the alteration which they desired, and urged by the repeated and earnest solicitations of Congress, and the dangers and difficulties of the contest in which they were embarked, the Legislature, on the 14th day of November, 1778, with that self-sacrificing devotion to the common good, and that magnanimous zeal in the cause of liberty, which marked their whole course, gave their assent to the articles of confederation. But they resolved to do so “ notwithstanding we view with concern the unequal terms of the articles of confederation between the several States, and notwithstanding the objections lately stated and sent to Congress on the part of this State, are founded in justice and equity, and several of them of the most essential moment to the interests thereof ; yet, maturely considering the urgent necessity of acceding to the confederacy, that every separate and detached State interest ought to be postponed to the public good, and firmly relying that the candor and justice of the several States will, in due time, remove the inequality which now subsists.” The Legislature of Delaware soon after followed the example of New Jersey, accompanying her ratification with a resolution declaring that those lands ought in justice to become the common property of the Union. But Maryland still refused to waive her objections, or to give her assent, unless those lands were first surrendered as common property. In the hope of removing this obstacle to the completion of the confederacy, Congress, on the 6th of September, 1780, passed resolutions most earnestly calling upon the States within whose limits those lands lay, to cede them for the common benefit ; and, on the 10th of October following, passed another resolution expressly declaring “ that the unappropriated lands that may be ceded or relinquished to the United States by any particular State, pursuant to the recommendation of Congress of the 6th day of September last, *shall be disposed of for the common benefit of the United States.*”

This appeal by Congress was not made in vain. On the 1st of March,

1781, New York ceded certain lands within her chartered limits "*to and for the only use and benefit of such of the States as are or shall become parties to the articles of confederation.*" On the 1st of March, 1784, Virginia ceded all her territory lying northwest of the Ohio river, upon the condition (among others) that it "*shall be considered a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever.*" On the 19th of April, 1785, Massachusetts ceded a portion of her lands to the United States, "*to the uses mentioned in a resolve of Congress of the tenth day of October, one thousand seven hundred and eighty,*" (being the resolution above quoted;) and on the 14th of September, 1786, Connecticut also ceded part of her vacant lands "*to the United States, in Congress assembled, for the common use and benefit of the said States, Connecticut inclusive.*" The cession made by South Carolina, on the 7th of August, 1787, is expressly declared to be "*unto the United States, in Congress assembled, for the benefit of the said States;*" and that made by North Carolina, on the 25th of February, 1790, provides that the lands thereby ceded "*shall be considered as a common fund, for the use and benefit of the United States of America, North Carolina inclusive, according to their respective and usual proportion in the general charge and expenditure, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever.*" The last cession made by any of the States, was that made by Georgia, on the 24th of April, 1802, which provides that the lands thereby ceded "*shall be considered as a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever.*" Thus it will be seen that "the candor and justice of the several States," upon which our fathers relied, did, "in due time, remove the inequality" of which they complained, and surrendered, for the general benefit, a property which the consequences of our revolutionary struggle have rendered of immense value. The whole of the residue of the public domain has been acquired by treaties, made in the name and behalf of the whole United States, and for their benefit. Louisiana, as is well known, was obtained at an expense of fifteen millions of dollars, which were paid out of the common treasury; and large amounts have, from time to time, been drawn from the same source, for extinguishing the Indian titles.

From this brief view of the manner in which the public lands have been acquired, it is perfectly manifest that they are, upon every principle of law and justice, the common property of the whole Union. If there were any room for doubt, it would seem to be upon the question whether, in strictness, they should not belong *exclusively* to the original thirteen States. It was wholly by their treasure, and toil, and blood, that a large portion of them was acquired; and at least plausible reasons might have been assigned for withholding a community of interest in them from the younger members of the Union, whom they admitted to a participation in the liberty they had achieved and the Government they had formed. But such has never been the policy they have pursued. Their conduct towards the new States has been throughout marked by a liberality and

generosity worthy of enlightened freemen. No jealous anxiety to preserve or increase their own power and importance has ever led them to interpose the slightest obstacles to emigration; no contracted or parsimonious views of pecuniary profit have ever placed those lands above the reach of the poorest settler; nor have they ever refused a listening ear and a helping hand to the slightest request for aid or protection. They have regarded them, not as a man regards his enemy or his rival, but as he looks upon a favorite child, in whom he fondly hopes soon to find an equal in usefulness and honor. No one can examine the history of the conduct of the General Government to the new States, without the conviction that it has been more than just; that it has been most liberally generous.

The first law for regulating the sale of those lands, passed May 20th, 1785, contains a provision setting apart one thirty-sixth part for the maintenance of public schools, and the same provision has been continued to the present time. From a report made by the Commissioner of the General Land Office to the House of Representatives, on the 28th of December, 1838, it appears that the quantity of public lands unsold, within the limits of the several States and Territories, is 229,711,075 acres; that 77,134,821 acres have been sold; and that 12,690,334 acres have been granted to those States and Territories, for the support of common schools, for academies, and colleges, and for roads and canals, and other public improvements. By the same report, it further appears that the sum of \$3,967,357 has been granted and paid out of the proceeds of the sale of those lands for the construction of roads within or leading to those States and Territories.

Of these things we do not complain; they were, no doubt, well and wisely done; and far be it from us to wish them undone. We rejoice to know that, under this liberal policy, portions of those "unpatented and unappropriated crown lands" have, in little more than half a century, become free and independent States of the Union; and that still other portions, under the same fostering influence, are rapidly advancing to the same dignity. But we do complain, and we feel we have a right to complain, that efforts are continually made, by means of graduation and pre-emption laws, to waste this public property, and, above all, that claims are made, and countenanced too, that these public lands, thus acquired, ought of right to be the sole and exclusive property of the States in which they lie. That such a claim is utterly destitute of any foundation in justice or equity, is abundantly manifest from the brief sketch of the manner in which those lands were acquired, already given. It may be that political management or numerical strength will hereafter crown this monstrous pretension with success; but no effort of human ingenuity can ever impress upon it the semblance of justice or honesty, until the history of the past shall have been obliterated or forgotten. Of one thing we are confident—that Jerseymen can never so far disregard what they owe to the memory of their fathers, to themselves, and to their posterity, as to give to it their assent. No State contributed to the achievement of our national independence and union a larger portion of property, of suffering fortitude and daring heroism, and of life itself, than New Jersey; yet no State has reaped from it so little direct pecuniary advantage. While other States, more favored by nature or by circumstances, have shared largely the benefits arising from expenditures made by the General Government to promote the national defence and security, and to facilitate navigation



and intercourse, scarcely a dollar has been expended for any of those purposes within her limits. Issuing from the toils and sufferings of our revolutionary struggle, exhausted in every thing but patriotism and honor, she has been left to provide her own common-school fund, to build and endow her own academies and colleges, and to construct her own railroads and canals, by such ways and means as she could devise. She has looked to the public lands, in part acquired by her valor, or purchased with her treasure, as a source from which she might hereafter expect aid in educating her sons, in developing her natural resources, in facilitating the intercourse of her citizens, and in accomplishing other similar purposes, which constitute the true glory and wealth of a State. But an attempt, it would seem, is to be made to strip her, in piecemeal or in mass, of this property, to which she is entitled by every principle of law and justice. It may be that it will succeed; but it shall not be with her consent or without her remonstrance.

The committee, therefore, recommend the adoption of the following resolutions.

CHARLES G. MCCHESNEY,	}	<i>Committee of Council.</i>
A. ARMSTRONG,		
WILLIAM STITES,	}	<i>Committee of Assembly.</i>
MOSES RICHMAN, Jr.,		
G. P. MOLLESON,		

JANUARY 23, 1839.

#### JOINT RESOLUTIONS.

*Resolved by the Council and General Assembly of this State, That the public lands, having been acquired by the common exertions and treasures of the United States, are, and of right ought to be, the common property of the whole Union.*

*Resolved, That the proceeds arising from the sale of those lands, if not required for the purposes of the General Government, ought to be proportionably distributed among the several States.*

*Resolved, That we regard the reduction of the prices of those lands, and the granting of pre-emption rights, as measures partial and unjust in their operation, and calculated to squander and waste the common property of the people of the United States for the benefit of a few.*

*Resolved, That, in the name and behalf of the people of the State of New Jersey, we do most solemnly and earnestly protest against the cession of those lands, or of any part thereof, to the States in which they lie, as an act of palpable injustice and wrong, neither required nor sanctioned by any public necessity or policy, and opposed to every principle of justice and equity.*

*Resolved, That the Senators and Representatives of New Jersey, in the Congress of the United States, will best conform to the wishes, and promote the interests of the people of this State, by acting in accordance with the foregoing resolutions.*

*Resolved, That the Governor be requested to forward copies of the foregoing resolutions and of the accompanying report to the Senators and Representatives in Congress from this State, with a request that the same*

be laid before their respective Houses; and also to the Governors of the several States of the Union, with a request to lay them before their respective Legislatures.

IN COUNCIL, *January 31, 1839.*

These joint resolutions having been three times read and compared in Council,

*Resolved*, That the same do pass.

By order of Council:

A. PARSONS,

*Vice President of Council.*

HOUSE OF ASSEMBLY, *February 7, 1839.*

These joint resolutions having been three times read and compared in the House of Assembly,

*Resolved*, That the same do pass.

By order of the House of Assembly:

LEWIS CONDUCT, *Speaker.*

#### STATE OF NEW JERSEY.

I, James D. Westcott, Secretary of State of New Jersey, do hereby certify that the foregoing is a true copy of certain joint resolutions, passed by the Legislative Council and General Assembly of said State, on the seventh day of February, A. D. one thousand eight hundred and thirty-nine, as taken from and compared with the original, now on file in my office.

In testimony whereof, I have hereunto set my hand, and affixed my seal of office, at the city of Trenton, in said State, this eighth day [L. S.] of February, A. D. one thousand eight hundred and thirty-nine. (1839.)

JAMES D. WESTCOTT.



